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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,247	03/19/2001	Bradley S. Hoyl	M-9698 US	7809

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EXAMINER

WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,247

Applicant(s)

HOYL ET AL.

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-16, 18-28 and 30-38 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9, 11-16, 18-20 and 30-38 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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This is the fifth office action for serial number 09/812,247, entitled Fiber Optic Cabling Management Using hook and loop Fabric, in response to amendment D filed on April 29, 2003.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Hubbard et al. (Hubbard) 4,617,017. Hubbard discloses a planar substrate (12) having a first surface (20); a cable fastener(22) having a second plurality of fasteners of one of a plurality of hook and loop mechanisms (29), a variable width opening (capable of encircling cables, see figure 3), an elongated body (26), a head portion (24), a head defining an opening (28).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbard as discussed above, in view of Hattori et al. (Hattori) 5,671,511. Hubbard discloses all of the limitations of the claimed invention except for the mushroom-shaped or pine-tree shaped stems. Hattori teaches that it is conventional to have a means for releasably engaging being a mushroom-shaped or pine-tree shaped stems (see figure 2 and entire document). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Hubbard to have the mushroom/pine-tree shaped stems as taught by Hattori for the purpose of providing a more secure means of attachment and is an obvious modification since both the Velcro and the mushroom/pine-tree shaped stems are mechanical equivalents used for attaching.

Claims 1, 4-9, 11, 14-16, 18-23, 26-28, 30-34, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grant in view of Hubbard 4,617,017, as discussed above. Grant discloses a means for supporting one or more cables including a cable fastener means (44), a means for releasably engaging the cable fastener including hook and loops (column 10, lines 58ff, Velcro straps), a cable routing apparatus comprising a frame means (12, 14, and 20), a planar substrate means (42), means for coupling the substrate means to the frame means (column 8, lines 42ff, threaded fasteners and apertures), a means for encircling (Velcro straps can be adjusted in size to encircle or tighten around one or more cables see figure 8 and column 2, lines 22ff)), fiber and electrical cables (see column 1, lines 40ff), means for releasably engaging the substrate (54, apertures) by the cable fasteners. Grant inherently teaches a method of managing cables. Grant discloses all of the limitations of the claimed invention except for the substrate containing a first plurality of fasteners of hook and loop mechanisms/means for

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supporting one or more fiber cables configured to releasably engage the means for releasably engaging the cable fastener means, and a cable fastener having a body having a predetermined width, a head portion having a greater width and an opening. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Grant to have made the substrate to have one of a plurality of hook and loop mechanisms/means for supporting one or more fiber cables configured to releasably engage the means for releasably engaging the cable fastener means, and the cable fastener to have the other of one of a plurality of hook and loop mechanisms/means for releasably engaging the cable fastener means as taught by Hubbard for the purpose of facilitating attachment of the cable fastener to the substrate. The modification of Grant in view of Hubbard would result in Grant having the cable fastener (44) having a surface with one of a plurality of hook and loop mechanisms and the substrate (42) having the other of a plurality of hook and loop mechanism therefore reducing the amount of time spent connecting the cable fastener to the substrate therefore facilitating attachment. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Grant to have made the cable fastener a body having a predetermined width, a head portion having a greater width and an opening as taught by Hubbard for the purpose of providing a faster means of adjusting the size of the cable fastener around the cables.

Claims 2, 3, 12, 13, 24, 25, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grant in view of Hubbard as discussed above, in further view of Hattori et al. (Hattori) 5,671,511. Grant in view of Hubbard discloses all of the limitations of the claimed invention except for the mushroom-shaped or pine-tree shaped

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stems. Hattori teaches that it is conventional to have a means for releasably engaging being a mushroom-shaped or pine-tree shaped stems (see figure 2 and entire document). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Grant in view of Hubbard to have the mushroom/pine-tree shaped stems as taught by Hattori for the purpose of providing a more secure means of attachment and is an obvious modification since both the Velcro and the mushroom/pine-tree shaped stems are mechanical equivalents used for attaching.

Claims 1, 4-9, 11, 14-16, 18-23, 26-28, 30-34, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Champion et al. (Champion) 6,327,139, in view of Hubbard, as discussed above. Champion discloses a frame (101), a substrate (301), a cable fastener (302), cables (114), means for releasably attaching (slots that receive the cable fasteners), means for attaching substrate to frame (107). Champion inherently teaches a method of managing cables. Champion discloses all of the limitations of the claimed invention except for the substrate containing a first plurality of fasteners of hook and loop mechanisms/means for supporting one or more fiber cables configured to releasably engage the means for releasably engaging the cable fastener means, and a cable fastener having a body having a predetermined width, a head portion having a greater width and an opening. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Champion to have made the substrate to have one of a plurality of hook and loop mechanisms/means for supporting one or more fiber cables configured to releasably engage the means for releasably engaging the cable fastener means, and the cable fastener to have the other of one of a plurality of hook and loop mechanisms/means for releasably engaging the cable fastener means as taught

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by Hubbard for the purpose of facilitating attachment of the cable fastener to the substrate. The modification of Champion in view of Hubbard would result in Champion having the cable fastener (302) having a surface with one of a plurality of hook and loop mechanisms and the substrate (301) having the other of a plurality of hook and loop mechanism therefore reducing the amount of time spent connecting the cable fastener to the substrate. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Champion to have made the cable fastener a body having a predetermined width, a head portion having a greater width and an opening as taught by Hubbard for the purpose of providing a faster means of adjusting the size of the cable fastener around the cables.

Claims 2, 3, 12, 13, 24, 25, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Champion in view of Hubbard as discussed above, in further view of Hattori et al. (Hattori) 5,671,511. Champion in view of Hubbard discloses all of the limitations of the claimed invention except for the mushroom-shaped or pine-tree shaped stems. Hattori teaches that it is conventional to have a means for releasably engaging being a mushroom-shaped or pine-tree shaped stems (see figures 2 and 3 and entire document). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Champion in view of Hubbard to have the mushroom/pine-tree shaped stems as taught by Hattori for the purpose of providing a more secure means of attachment and is an obvious modification since both the Velcro and the mushroom/pine-tree shaped stems are mechanical equivalents used for attaching.

Response to Arguments

Applicant's arguments filed November 10, 2003 have been fully considered but they are not persuasive.

In response to the applicant's arguments that the cable fastener of Hubbard et al. (Hubbard) is not separate from the substrate the examiner would like to point out that separate by definition means "to divide into constituent parts" (Merriam Webster's Collegiate Dictionary tenth edition). Hubbard clearly discloses that the cable fastener (22) is a separate and individual part which functions to hold a tubular member to another separate and individual part the planar substrate (12). The cable fastener (22) and substrate (12) are also separate from one another since the cable fastener is attached to another part (14) and not directly to the substrate (12); therefore the cable fastener (22) when not attached to the substrate (12) via the Velcro members the cable fastener is separate from the substrate (12).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a cable fastener which may be releasably coupled at any location and orientation on a substrate) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

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references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the references (Grant, Champion, and Hubbard) disclose a cable fastener (Hubbard 22 and , Grant 44, and Champion 302) releasably coupled to a planar substrate (Hubbard 12, Grant 42, and Champion (301) which shows that all of the references are within the art of managing cables/tubes to which is in the field of the applicant's endeavor. The motivation to combine the references is provided within Grant and Champion which disclose that the cable fasteners can be releasably attached to the substrate by the user (column 10, lines 15ff, Grant and column 3, lines 55ff, Champion). The examiner being one of ordinary skill in the art knows that it would be within the knowledge generally available to have substituted one mechanical means for attaching/fastening for another equivalent means for attaching/fastening since such a modification is merely an engineering design choice. Hubbard teaches that it is well known to have a plurality of one of hooks or loops to a cable fastener and the other of the plurality of one of hooks or loops to the substrate as a conventional means for attaching/fastening.

Conclusion

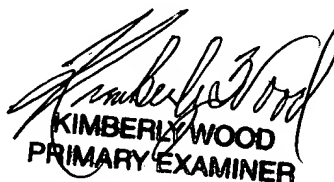
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Wood whose telephone number is (703) 308-0539. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 5:00 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168. The fax number for an Official Amendment or Response is (703) 872-9326. The fax number for an Official After Final Amendment or Response is (703) 872-9327.

Kimberly Wood
Primary Examiner
March 8, 2004



KIMBERLY WOOD
PRIMARY EXAMINER